

ESTTA Tracking number: **ESTTA622017**Filing date: **08/18/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	mMetro.com LLC
Granted to Date of previous extension	08/17/2014
Address	c/o Pilot Group Manager LLC 75 Rockefeller Plaza 23rd Floor New York, NY 10019 UNITED STATES
Correspondence information	Joseph J. Villapol LADAS & PARRY LLP 1040 Avenue of the Americas New York, NY 10018 UNITED STATES jvillapol@ladas.com, rroa@ladas.com, alloyd@ladas.com Phone:212-708-1865

Applicant Information

Application No	86073548	Publication date	02/18/2014
Opposition Filing Date	08/18/2014	Opposition Period Ends	08/17/2014
Applicant	Fyro Limited 64 New Cavendish Street London, W1G8TB UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 041. First Use: 2011/03/01 First Use In Commerce: 2011/03/01
All goods and services in the class are opposed, namely: Providing entertainment information via website

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	The subject application is void ab initio, since Applicant was not using the THRILLCITY mark in the ordinary course of trade in United States commerce at the time of filing of the application.

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3365242	Application Date	04/27/2007
Registration Date	01/08/2008	Foreign Priority	NONE

		Date	
Word Mark	THRILLIST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/06/01 First Use In Commerce: 2005/06/01 Publication services, namely, online publications in the nature of newsletters in the fields of entertainment and lifestyles		

U.S. Registration No.	3264673	Application Date	06/15/2006
Registration Date	07/17/2007	Foreign Priority Date	NONE
Word Mark	THRILLIST		
Design Mark			
Description of Mark	The mark consists of the color red with the word THRILLIST in the color gray placed slanted across and centered on the circle and two gray lines intersecting the circle at the top and the bottom.		
Goods/Services	Class 041. First use: First Use: 2005/06/01 First Use In Commerce: 2005/06/01 Publication services, namely, online publications in the nature of newsletters in the fields of entertainment and lifestyles		

Attachments	77168055#TMSN.png(bytes) 78908786#TMSN.png(bytes) mMetro.com v Fyro Limited - notice of opposition (Serial No. 86073548).pdf(146124 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Joseph J. Villapol/
Name	Joseph J. Villapol
Date	08/18/2014

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		:	
mMETRO.COM,		:	
	Opposer,	:	Opposition No. _____
		:	(Serial No. 86/073,548)
v.		:	
		:	
FYRO LIMITED,		:	
	Applicant.	:	
-----X		:	

In the matter of Application Serial No. 86/073,548, filed on September 24, 2013 by Fyro Limited, a United Kingdom limited company with an address at 64 New Cavendish Street, London, United Kingdom W1G8TB (“Applicant”), in International Class 41 seeking registration on the Principal Register of the trademark THRILLCITY in connection with “[p]roviding entertainment information via a website”, which application was published for opposition on February 18, 2014, with extensions of time granted up to, and including, Sunday, August 17, 2014;

1. Opposer is the owner of the marks THRILLIST and THRILLIST and Design, including, respectively, incontestable U.S. Registration Nos. 3,365,242 and

3,264,673, and of the goodwill associated with such marks (individually and collectively, the “THRILLIST Mark”).

2. Opposer adopted and has continuously used the THRILLIST Mark in connection with online publications in the fields of entertainment and lifestyles since long prior to the date of first use claimed in Applicant’s THRILLCITY application.

3. Opposer has advertised, promoted, marketed, and otherwise publicized its online publications in the fields of entertainment and lifestyles such that consumers have come to know and recognize the THRILLIST Mark as identifying services which originate with, are authorized by, or otherwise identify, Opposer.

4. Applicant’s use of the mark THRILLCITY in connection with “[p]roviding entertainment information via a website” constitutes use of a mark confusingly similar to Opposer’s THRILLIST Mark. Applicant’s mark is virtually identical to Opposer’s THRILLIST Mark and is likely to be perceived by purchasers as either a variation or another of Opposer’s THRILLIST Marks.

5. The services covered by Applicant’s THRILLCITY application are also identical and/or closely related to the online publications in the fields of entertainment and lifestyles marketed by Opposer under its THRILLIST Mark. Indeed, to the extent Applicant’s services are not identical to those of Opposer, consumers are likely to mistakenly believe that Opposer has expanded its use of the THRILLIST Mark to related and/or complimentary services within Opposer’s zone of natural expansion.

6. Applicant’s mark is likely to be confused with Opposer’s THRILLIST Mark such that the average consumer is likely to be confused and deceived into believing that Applicant’s services originate with, are in some way associated with, or are

connected, sponsored or authorized by, Opposer.

7. On information and belief, at the time of filing of Applicant's THRILLCITY application, Applicant's website at www.thrillcity.com was in the 'beta', or testing, stage (and remains so today) and is not fully operational. In addition, Applicant's website has at all times offered services strictly outside the United States. Thus, on information and belief, Application No. 86/073,548 is void *ab initio*, since Applicant was not using the THRILLCITY mark in the ordinary course of trade in United States commerce at the time of filing of the application.

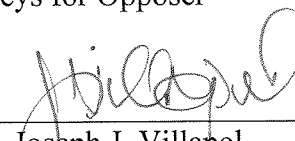
WHEREFORE, Opposer requests that the opposition be sustained and that Application No. 86/073,548 be refused registration.

Respectfully submitted,

LADAS & PARRY LLP
Attorneys for Opposer

Dated: August 18, 2014


By: _____


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CERTIFICATE OF TRANSMISSION

I, Allen M. Lloyd, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** is being electronically transmitted to the United States Patent and Trademark Office on the date indicated:

Dated: August 18, 2014


Allen M. Lloyd

CERTIFICATE OF SERVICE

I, Allen M. Lloyd, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served on the persons(s) listed below by First-Class Mail, postage prepaid, on the date indicated below:

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Dated: August 18, 2014


Allen M. Lloyd